



STATE OF INDIANA

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December 29, 2015

Ms. Jennifer Wilson
127 S. Liberty Street
Lowell, Indiana 46356

*Re: Formal Complaint 15-FC-316; Alleged Violation of the Open Door Law by
the Tri Creek School Corporation*

Dear Ms. Wilson:

This advisory opinion is in response to your formal complaint alleging the Tri Creek School Corporation ("School") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The School has responded via Ms. Elizabeth Lucas Barnes, Esq. Her response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on November 24, 2015.

BACKGROUND

Your complaint dated November 23, 2015 alleges Tri Creek School Corporation violated the Access to Public Records Act by improperly denying your request.

On November 5, 2015, you orally requested a copy of all board policies and strategic plans. You were told the School did not have these documents on hand. On November 6, 2015 you were told to file a written request with the corporation. You did so. You contend your request was immediately and improperly denied. On November 6, 2015, you received a letter from the School asking you to refine your request for board policies to meet reasonable particularity. You are also seeking a copy of the superintendent's contract. You note her current contract expired on June 30, 2015 and was lacking salary information.

On November 9, 2015 you submitted a new request form which reiterated your request for current policies and strategic plans. On November 12, 2015, the School's business manager informed you the Board policies were posted online. The manager also provided a one-page record which the School believes satisfied your request for strategic plans. Finally, you were informed the superintendant's contract was available online.

ANALYSIS

The public policy of the APRA states that “(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information.” See Ind. Code § 5-14-3-1. The Tri Creek School Corporation is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy the Corporation’s disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

A request for records may be oral or written. See Ind. Code § 5-14-3-3(a). If the request is delivered by mail or facsimile and the agency does not respond to the request within seven (7) days of receipt, the request is deemed denied. See Ind. Code § 5-14-3-9(c). A response from the public agency could be an acknowledgement the request has been received and information regarding how or when the agency intends to comply. Under the APRA, when a request is made in writing and the agency denies the request, the agency must deny the request in writing and include a statement of the specific exemption or exemptions authorizing the withholding of all or part of the record and the name and title or position of the person responsible for the denial. See Ind. Code § 5-14-3-9(d).

The request for board policies and strategic plans was originally made orally on November 5, 2015. It was then made in writing on November 6, 2015 and reiterated on November 9, 2015. Nowhere in the record does it appear you were denied access to records. In fact, the business manager’s November 6, 2015 letter was quite clear the School was merely asking for your request to be refined and was not a denial. Regardless, the School informed you the plans were available on November 12, 2015 and provided a copy of its strategic plan. In fact, you included the documentation with your complaint. Similarly, the request for the superintendant’s contract was apparently fulfilled because you included a copy of the contract with your complaint as well.

I am left to conclude you are merely dissatisfied with the length of the summary and lack of documentation triggering renewal of the superintendent’s contract. As the School correctly noted, the APRA does not mandate the creation of documents, merely the maintenance and production of existing public records.

CONCLUSION

Based on the forgoing, it is the Opinion of the Public Access Counselor the Tri Creek School Corporation has not violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to be 'LHB', with a long, sweeping underline that extends to the left.

Luke H. Britt
Public Access Counselor

Cc: Ms. Elizabeth Lucas Barnes, Esq.